

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SONIA I. WAGNER, Surviving Spouse, herein represented
by CORPUZ AND ASSOCIATES, P.C., as Attorney-in-Fact,

Civil Action No.:
08 CV 11284 (GBD)

Plaintiffs,

-against-

METROPOLITAN LIFE INSURANCE COMPANY,
UNITED AIR LINES, INC., EDWARD WAGNER AND
ELIZABETH WAGNER,

Defendants.

**DEFENDANTS' NOTICE
OF MOTION TO STRIKE
PLAINTIFF'S AFFIDAVIT**

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PLEASE TAKE NOTICE that, upon the Declaration of Michael H. Bernstein dated July 30, 2010, the exhibit annexed thereto and upon the accompanying Memorandum of Law, the defendants Metropolitan Life Insurance Company and United Air Lines, Inc., by their attorneys, Sedgwick, Detert, Moran & Arnold LLP, will move this Court on September 9, 2010 at 10:00 A.M., before the Hon. George B. Daniels, U.S.D.J. at the United States Courthouse, Southern District of New York, located at 500 Pearl Street, Courtroom 21D, New York, New York for an Order pursuant to Rules 56(e) and 37(c)(1), FED. R. CIV. P., striking the Affidavit of Sonia Wagner and the exhibits annexed thereto (Doc. No. 51), as well as all corresponding statements in her Rule 56.1 Statement (Doc. No. 49), that are based on this inadmissible evidence, and granting any such other and further relief as the Court deems just and proper.

Dated: New York, New York
July 30, 2010

Respectfully submitted,
SEDGWICK, DETERT, MORAN & ARNOLD LLP

s/_____
MICHAEL H. BERNSTEIN (MB 0579)
JOHN T. SEYBERT (JS 5014)
125 Broad Street, 39th Floor
New York, New York 10004-2400
(212) 422-0202
Attorneys for Defendants
Metropolitan Life Insurance Company and
United Air Lines, Inc.

CERTIFICATE OF SERVICE

I, JOHN T. SEYBERT, hereby certify and affirm that a true and correct copy of the attached **DEFENDANTS' NOTICE OF MOTION TO STRIKE PLAINTIFF'S AFFIDAVIT** was served via ECF on this 30th day of July, 2010, upon the following:

Benjy M. Corpuz, Esq.
40-35 Hampton Street
Elmhurst, New York 11373

s/_____
JOHN T. SEYBERT (JS 5014)

Dated: New York, New York
July 30, 2010